## REMARKS

Claims 1-10 have been rejected under the obviousness-type double patenting doctrine as being unpatentable over claims 1-12 of Ang (6,424,630). This rejection is respectfully traversed for the following reasons.

It is well settled that any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. § 103 obviousness determination. ***In re Braat,*** 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991).

Hence, it is incumbent upon the Examiner to factually support a conclusion of obviousness. As stated in ***Graham v. John Deere Co.*** 383 U.S. 1, 13, 148 U.S.P.Q. 459, 465 (1966), obviousness under 35 U.S.C. §103 must be determined by considering (1) the scope and content of the prior art; (2) ascertaining the differences between the prior art and the claims in issue; and (3) resolving the level of ordinary skill in the pertinent art.

It is respectfully submitted that the Examiner has failed to factually support his conclusion of obviousness. Accordingly, the present rejection is defective.

In particular, the Examiner did not address the claimed limitations to ascertain the differences between the prior art and the claims in issue. Instead, the Examiner asserts that the limitations of claims 1-10 of the present application are all encompassed by those of the claims 1-12 of the Ang patent.

The Examiner's assertion is respectfully traversed for the following reasons.

Claim 1 recites a method of configuring a transceiver having an output driver for driving an output terminal to provide data transmission via residential wiring, the method comprising the steps of:

setting a DC level at the output terminal,

comparing a controlled value representing the DC level with a predetermined threshold level, and

controlling the output driver until the controlled value is equal to the threshold level.

It is respectfully submitted that claims 1-12 of the Ang patent does not teach or suggest setting a DC level at the output terminal, comparing a controlled value representing the DC level with a predetermined threshold level, and controlling the output driver until the controlled value is equal to the threshold level.

Instead, claim 1 of the Ang patent recites a method of calibrating a physical layer transceiver configured for receiving network signals from a telephone line medium. This method comprises the steps of:

-generating in a common mode voltage generator a common mode voltage signal having an initial maximum value;

-supplying the common mode voltage signal to a receiver circuit configured for processing the network signals from the telephone line medium according to the common mode voltage signal, the receiver circuit including a noise comparator configured for generating a noise comparison signal based on an input signal exceeding a prescribed noise threshold;

-determining a presence of an event where the common mode voltage signal falls below the prescribed noise threshold as the input signal; and

-selectively setting the common mode voltage signal to a calibrated value based on the determined presence of the event.

The dependent claims 2-12 also do not teach or suggest the claimed limitations.

Independent claim 5 recites a transceiver for providing data communications over residential wiring, comprising:

an output driver for supplying a transmit signal of a prescribed level to the residential wiring, and

an output drive control system for comparing a DC level set at the output of the output driver with a predetermined threshold signal to control the output driver so as to maintain the transmit signal at the prescribed level.

As demonstrated above, the claims of the Ang patent do not teach or suggest the elements of claim 5.

It is noted that in the application of a rejection under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. ***Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.***, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985). ***In re Fine***, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); ***Stratoflex, Inc. v. Aeroquip Corp.***, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); ***In re Warner***, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967).

These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. ***In re Oetiker***, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992).

It is submitted that the Examiner has failed to provide the requisite reasons for modifying the claims of the Ang patent and thus to establish a *prima facie* case of obviousness.

Accordingly, the Examiner's conclusion of obviousness is not warranted. Hence, the Examiner's rejection of claims 1-10 under the obviousness-type double patenting doctrine as being unpatentable over claims 1-12 of Ang is improper and should be withdrawn.

In view of the foregoing, and in summary, claims 1-10 are considered to be in condition for allowance. Favorable reconsideration of this application is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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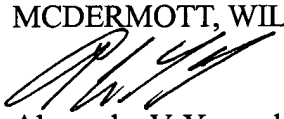

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**Date: October 15, 2003**